

SENATE BILL NO. 221

INTRODUCED BY R. JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REPEALING THE STATUTES REQUIRING~~ ELIMINATING THE
REQUIREMENT FOR A CERTIFICATE OF NEED FOR CERTAIN HEALTH CARE FACILITIES; AMENDING
SECTIONS ~~20-7-436, 33-31-111, 33-31-203, 33-31-221, 50-4-103, 50-5-101, 50-5-104, 50-5-106,~~
~~50-5-207, AND 90-7-303, MCA; REPEALING SECTIONS 50-5-301, 50-5-302, 50-5-304, 50-5-305,~~
~~50-5-306, 50-5-307, 50-5-308, 50-5-309, AND 50-5-310, SECTION 50-5-301, MCA; AND PROVIDING~~
AN IMMEDIATE EFFECTIVE DATE ~~AND AN APPLICABILITY DATE.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 50-5-301, MCA, is amended to read:

"50-5-301. When certificate of need is required -- definitions. (1) Unless a person has submitted
an application for and is the holder of a certificate of need granted by the department, the person may not
initiate any of the following:

(a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure
that exceeds \$1.5 million, other than to acquire an existing health care facility. The costs of any studies,
surveys, designs, plans, working drawings, specifications, and other activities (including staff effort,
consulting, and other services) essential to the acquisition, improvement, expansion, or replacement of any
plant with respect to which an expenditure is made must be included in determining if the expenditure
exceeds \$1.5 million.

(b) a change in the bed capacity of a health care facility through an increase in the number of beds
or a relocation of beds from one health care facility or site to another, unless:

(i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional,
rounded down to the nearest whole number, whichever figure is smaller, and no beds have been added
or relocated during the 2 years prior to the date on which the letter of intent for the proposal is received;

(ii) a letter of intent is submitted to the department; and

(iii) the department determines that the proposal will not significantly increase the cost of care provided or exceed the bed need projected in the state health care facilities plan;

(c) the addition of a health service that is offered by or on behalf of a health care facility that was not offered by or on behalf of the facility within the 12-month period before the month in which the service would be offered and that will result in additional annual operating and amortization expenses of \$150,000 or more;

(d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or more of an existing health care facility unless:

(i) the person submits the letter of intent required by 50-5-302(2); and

(ii) the department finds that the acquisition will not significantly increase the cost of care provided or increase bed capacity;

(e) the construction, development, or other establishment of a health care facility that is being replaced or that did not previously exist, by any person, including another type of health care facility;

~~(f) the expansion of the geographical service area of a home health agency;~~

(F) THE EXPANSION OF THE GEOGRAPHICAL SERVICE AREA OF A HOME HEALTH AGENCY;

~~(g)(f)(G) the use of hospital beds in excess of five to provide services to patients or residents needing only skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels of care are defined in 50-5-101; or~~

~~(h)(g)(H) the provision by a hospital of services for ambulatory surgical care through an outpatient center for surgical services, as defined in subsection (2)(a), home health care, HOME HEALTH CARE, long-term care, or inpatient chemical dependency treatment, or inpatient rehabilitation; OR~~

(I) THE CONSTRUCTION, DEVELOPMENT, OR OTHER ESTABLISHMENT OF A FACILITY FOR AMBULATORY SURGICAL CARE THROUGH AN OUTPATIENT CENTER FOR SURGICAL SERVICES IN A COUNTY WITH A POPULATION OF 20,000 OR LESS ACCORDING TO THE MOST RECENT FEDERAL CENSUS OR ESTIMATE.

(2) For purposes of this part, the following definitions apply:

(a) "Health care facility" or "facility" means a ~~nonfederal home health agency, NONFEDERAL HOME HEALTH AGENCY, A long-term care facility, or an inpatient chemical dependency facility, rehabilitation facility with inpatient services, or outpatient center for surgical services that has or is intended to qualify for~~ medicare certification as an ambulatory surgical center pursuant to 42 CFR, part 416. The term does not include:

(i) a hospital, except to the extent that a hospital is subject to certificate of need requirements pursuant to subsection ~~(1)(h)~~ ~~(1)(g)~~ ~~(1)(H)~~; or

(ii) an office of a private physician, dentist, or other physical or mental health care professionals, including chemical dependency counselors; or

~~(iii) a nonfederal home health agency, a rehabilitation facility with inpatient services, or an outpatient center for surgical services that has or is intended to qualify for medicare certification as an ambulatory surgical center pursuant to 42 CFR, part 416.~~

(b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

(ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed under 41-3-1142; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals not requiring institutional health care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

(3) This section may not be construed to require a health care facility to obtain a certificate of need for a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than a health care facility."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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